

House Resources Committee Hearing of February 6, 2002

Statement of Thomas N. Slonaker

The Special Trustee for American Indians

Mr. Chairman, as the Special Trustee for American Indians, I am pleased to have this opportunity to discuss with the Committee issues pertaining to the reform of the trust responsibility within the Department of the Interior. It has now been 20 months since I was confirmed by the Senate as the Special Trustee. During that time I have reached several conclusions that I would like to share with you regarding the capability of the Government to manage appropriately the Indian trust assets it holds as trustee for specific Indian beneficiaries, comprised of some 300 tribes and nearly 300,000 individuals.

Trust reform, as well as the ongoing delivery of trust services to these individual and tribal beneficiaries, has reached a point where radical measures need to be undertaken now.

Specifically, the Department's discharge of its trust responsibilities, as it is now organized, is inadequate to the demands placed upon it.

The primary problems are as follows. First, there is the need for a clear understanding of the Government's trust obligation to the beneficiaries. Second, there is a great need for experienced trust management. Finally, there is the need to ensure accountability by those responsible for delivering trust services.

It is self evident that the nature and scope of the Federal Government's trust obligations in the area of Indian affairs is complex and reflects a history dating to the establishment of the Federal Government. The American Indian Trust Fund Management Reform Act of 1994 addresses itself to a discreet part of those Federal obligations: the physical assets the Government holds or controls as trustee for some 300 tribes and approximately 300,000 individual Native Americans. Like a private trustee or commercial bank's trust department, the Department is responsible for identifiable assets, in this instance primarily land and investable cash, and is required to manage those assets, make fiducially responsible investment decisions, account for the income produced and report fully to the beneficiaries about its stewardship of these Indian trust assets. Like every other trustee, the Government trustee is required to know at every moment what assets are held in trust, how those assets are invested and managed and to whom the proceeds of that management belong and are to be paid. The Reform Act has erased any doubt that those traditional trust duties are Federal trust duties.

The problems that trouble the Department are management problems. The lack of management capability is signaled by the evident need for senior managers with experience in delivering trust services and operating trust systems. Additionally, there is a critical need for senior level, project management skills applicable to large trust reform projects.

The lack of accountability refers to the need to have all staff that are charged with trust responsibilities perform as directed by informed and responsible senior managers.

Until a better understanding of the trust obligation, better management, and more accountability are in place--regardless of what the trust organization looks like--it will be difficult for the Government to come into compliance with the 1994 Reform Act.

I concur with the Secretary's concept of a single organizational unit responsible for the management of the Indian trust assets. That organization has the potential of addressing the accountability concerns by placing one executive, responsible to the Secretary, in charge of the delivery of the appropriate, required trust services to tribes and individual Indians. I believe a single organization with its own chain of command, that is, not diluted by intersecting other Departmental chains of command, can work better than the present arrangement. The devil, however, is in the details, and the new organization must have the right executive direction and actually hold people accountable.

I also believe that the trust organization needs to be detached from the Bureau of Indian Affairs and placed on its own footing.

It has been proposed by the Special Trustee's Advisory Board on December 7, 2001, a group created by the 1994 Reform Act, that the entire Indian trust function be removed from Interior and lodged in a self contained organization to be created by Congress. This thought was an initiative of that Board. It is based in large part on the Department's inability over the many years to identify and cure its management problems, and is a suggestion that has merit.

On the other hand, I disagree with those who suggest that once the trust organization is "fixed" that it be returned to the Bureau of Indian Affairs. I believe that organizations are not well motivated to make necessary changes if they know that one day they will return to their previous owner.

I also want to comment on the role of the Special Trustee. I believe that the Special Trustee is required to provide candid and informed guidance to the Secretary as she seeks the more effective management of the trust responsibilities under her control. The Office of the Special Trustee (OST) will continue to focus on its oversight responsibilities. Therefore, OST must be provided appropriate resources and pursue every opportunity to ensure that trust reform is carried out effectively and efficiently.

For instance, the Office of the Special Trustee receives appropriations for trust reform activities, no matter where in Interior the reform project is managed. OST then initiates the funding of projects when and if adequate plans and management appear to be satisfactory. In some instances, we have found it necessary to interrupt funding when expected project success is not being achieved. This process has proven helpful to the reform process and has given the Special Trustee a useful and independent voice in that effort. I believe this budget control over the reform of the trust function should continue to be a part of OST's responsibility. The independence and informed objectivity of the OST, I believe, is essential to achieving lasting trust reform.

Reform can be done with the right leadership, the necessary accountability, and consequences for non-performance.

Thank you.

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